

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001	03 MDL 1570 (GBD)
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*This document relates to:*

*Kathleen Ashton, et al. v. Al Qaeda Islamic Army, et al. (01 CV 6977) ("Ashton")*

*Thomas E. Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al. (03 CV 9849) ("Burnett D.C.")*

*Thomas E. Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al. (03 CV 5738) ("Burnett N.Y.")*

*Cantor Fitzgerald & Co., et al. v. Al Baraka Inv. & Dev. Corp., et al. (04 CV 7065) ("Cantor Fitzgerald")*

*Continental Casualty Co., et al. v. Al Qaeda, et al. (04 CV 5970) ("Continental Casualty")*

*Euro Brokers, Inc., et al. v. Al Baraka Inv. & Dev. Corp., et al. (04 CV 7279) ("Euro Brokers")*

*Federal Ins. Co., et al. v. Al Qaida, et al. (03 CV 6978) ("Federal Insurance")*

*New York Marine and General Ins. Co. v. Al Qaida, et al. (04 CV 6105) ("N.Y. Marine")*

*Estate of John P. O'Neill, Sr. v. Al Baraka Inv. & Dev. Corp., et al. (04 CV 1923) ("O'Neill")*

*World Trade Center Properties, LLC, et al. v. Al Baraka Inv. & Dev. Corp., et al. (04 CV 7280) ("World Trade Center Properties")*

**AFFIDAVIT OF JAMES J. MCGUIRE, ESO. IN SUPPORT OF  
APPLICATION TO CHANGE COUNSEL PURSUANT  
TO LOCAL CIVIL RULE 1.4**

STATE OF NEW YORK     )  
                                       )  
COUNTY OF NEW YORK    )     ss:

James J. McGuire, Esq., being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and make this affidavit in support of the application of defendant DMI Administrative Services, S.A. ("DMI S.A."), pursuant to Rule 1.4 of the Local Rules, to substitute my new firm, Mishcon de Reya New York LLP, as counsel of record for DMI S.A. in the above-captioned consolidated action and replace my former firm, Sheppard, Mullin, Richter & Hampton LLP.

2. I also make this affidavit in support of the application of defendant Dar Al-Maal Al-Islami Trust ("DMI Trust"), pursuant to Rule 1.4 of the Local Rules, to substitute my new firm, Mishcon de Reya New York LLP, as counsel of record for DMI Trust in the above-captioned consolidated action and replace my former firm, Sheppard, Mullin, Richter & Hampton LLP.

3. Upon information and belief, the status is as follows with respect to DMI S.A.:

- (a) Burnett D.C.- On April 9, 2004, DMI S.A. filed its Motion to Dismiss the Burnett D.C. action. On June 4, 2004, the Burnett plaintiffs filed their opposition to DMI S.A.'s Motion to Dismiss. On June 18, 2004, DMI S.A. filed its reply brief. On May 10, 2005, the Burnett plaintiffs filed a More Definite Statement as to DMI S.A. On August 25, 2005, DMI S.A. filed its Motion to Withdraw its Motion to Dismiss. On September 16, 2005, DMI S.A. filed its second Motion to Dismiss. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On January 27, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.

- (b) Burnett N.Y.- On September 16, 2005, DMI S.A. filed its Motion to Dismiss the Burnett N.Y. action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On January 27, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.
- (c) Cantor Fitzgerald- On January 14, 2005, the Cantor Fitzgerald plaintiffs filed their RICO Statement against DMI S.A. On September 9, 2005 DMI S.A. filed its Motion to Dismiss the Cantor Fitzgerald action. On September 29, 2005 plaintiffs filed a More Definite Statement as to DMI S.A., which was later withdrawn. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On January 20, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.
- (d) Continental Casualty- On May 6, 2005, DMI S.A. filed its Motion to Dismiss the Continental Casualty action. On August 10, 2005, DMI S.A. was voluntarily dismissed by plaintiffs from the Continental Casualty action. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.
- (e) Euro Brokers- On May 10, 2005, the Euro Brokers plaintiffs filed their RICO Statement against DMI S.A. On September 16, 2005, DMI S.A. filed its Motion to Dismiss the Euro Brokers action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On January 27, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.

- (f) Federal Insurance- On September 17, 2004, the Federal Insurance plaintiffs filed their RICO Statement against DMI S.A. On October 15, 2004, DMI S.A. filed its Motion to Dismiss the Federal Insurance Action. On December 14, 2004, the Federal Insurance plaintiffs filed their opposition to DMI S.A.'s Motion to Dismiss. On January 4, 2004, DMI S.A. filed its reply brief. On May 26, 2005, the Federal Insurance plaintiffs filed an Amended RICO Statement against DMI S.A. On August 25, 2005, DMI S.A. filed its Motion to Withdraw its Motion to Dismiss in the Federal Insurance action. On September 23, 2005 DMI S.A. filed its second Motion to Dismiss. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On February 3, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.
- (g) N.Y. Marine- On May 6, 2005, DMI S.A. filed its Motion to Dismiss the N.Y. Marine action. On July 1, 2005, N.Y. Marine filed its RICO Statement against DMI S.A. On July 13, 2005, the N.Y. Marine plaintiffs filed their opposition to DMI S.A.'s Motion to Dismiss. On August 3, 2005, DMI S.A. filed its reply brief. On September 30, 2005, the N.Y. Marine plaintiffs filed their Second Amended Complaint. On November 4, 2005, DMI S.A. filed a Supplemental Memorandum of Law in further support of its Motion to Dismiss. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On February 6, 2006, DMI S.A. filed its second reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.
- (h) O'Neill- On January 4, 2005, the O'Neill plaintiffs filed a RICO Statement against DMI S.A. On June 14, 2005, plaintiffs filed an Amended RICO Statement. On July 29, 2005, plaintiffs filed their Second Amended RICO Statement. On September 9, 2005, DMI S.A. filed its Motion to Dismiss the O'Neill action. On September 30, 2005, plaintiffs filed a More Definite Statement as to DMI S.A. On November 4, 2005, DMI S.A. filed a Supplemental Memorandum of Law in further support of its Motion to Dismiss. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On January 20, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI



S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.

- (i) World Trade Center Properties- On January 14, 2005, the World Trade Center Properties plaintiffs filed a More Definite Statement as to DMI S.A. On May 10, 2005, plaintiffs filed their RICO Statement against DMI S.A. On June 14, 2005, plaintiffs filed an Amended RICO Statement against DMI S.A. On July 29, 2005, plaintiffs filed their Second Amended RICO Statement against DMI S.A. On September 16, 2005, DMI S.A. filed its Motion to Dismiss the World Trade Center Properties action. On September 30, 2005, plaintiffs filed a More Definite Statement as to DMI S.A. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI S.A.'s Motion to Dismiss. On November 4, 2005, DMI S.A. filed a Supplemental Memorandum of Law in support of its Motion to Dismiss. On January 20, 2006, DMI S.A. filed its reply brief. On May 9, 2006, DMI S.A. filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI S.A.'s Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI S.A. filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI S.A.'s Request for Judicial. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief.

4. Upon information and belief, the status is as follows with respect to DMI Trust:

- (a) Ashton-On or about September 30, 2005, DMI Trust filed its Motion to dismiss the Ashton action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 10, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.
- (b) Burnett D.C.- On October 7, 2005, DMI Trust filed its Motion to Dismiss the Burnett D.C. action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 17, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to

Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.

- (c) Burnett N.Y.- On October 7, 2005, DMI Trust filed its Motion to Dismiss in the Burnett N.Y. action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 17, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.
- (d) Cantor Fitzgerald- On January 14, 2005 the Cantor Fitzgerald plaintiffs filed their RICO Statement against DMI Trust. On September 29, 2009 plaintiffs filed a More Definite Statement as to DMI Trust, which was later withdrawn. On September 30, 2005 DMI Trust filed its Motion to Dismiss the Cantor Fitzgerald action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 10, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.
- (e) Continental Casualty- On September 23, 2005, DMI Trust filed its Motion to Dismiss the Continental Casualty action. On November 4, 2005, DMI Trust

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- (f) Euro Brokers- On May 10, 2005, the Euro Brokers plaintiffs filed their RICO Statement against DMI Trust. On October 7, 2005, DMI Trust filed its Motion to Dismiss the Euro Brokers action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 17, 2006, DMI Trust filed its Reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.
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George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.

- (h) N.Y. Marine- On July 1, 2005, the N.Y. Marine plaintiffs filed their RICO Statement against DMI Trust. On September 23, 2005, DMI Trust filed its Motion to Dismiss the N.Y. Marine action. On September 30, 2005, the N.Y. Marine plaintiffs filed their Second Amended Complaint. On November 4, 2005, DMI Trust filed its Supplemental Memorandum of Law in further support of its Motion to Dismiss. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 3, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.
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- (j) World Trade Center Properties- On January 14, 2005, the World Trade Center Properties plaintiffs filed a More Definite Statement as to DMI Trust. On May 10, 2005, plaintiffs filed their RICO Statement against DMI Trust.



On June 14, 2005, plaintiffs filed an Amended RICO Statement against DMI Trust. On July 29, 2005, plaintiffs filed their Second Amended RICO Statement against DMI Trust. On September 30, 2005, plaintiffs filed a More Definite Statement as to DMI Trust. On October 7, 2005, DMI Trust filed its Motion to Dismiss the World Trade Center Properties action. On December 19, 2005, Plaintiffs' Executive Committee filed their Consolidated Opposition to DMI Trust's Motion to Dismiss. On February 10, 2006, DMI Trust filed its reply brief. On May 9, 2006, DMI Trust filed a Request for Judicial Notice in further support of its Motion to Dismiss. On June 14, 2006, Plaintiffs' Executive Committee filed a Motion to strike DMI Trust's Request for Judicial Notice in further support of its Motion to Dismiss. On June 28, 2006, DMI Trust filed its Opposition to Plaintiffs' Executive Committee's Motion to strike DMI Trust's Request for Judicial Notice. On July 6, 2006, Plaintiffs' Executive Committee filed its reply brief. On July 31, 2008, counsel for DMI Trust submitted a letter to Honorable George B. Daniels requesting permission for DMI Trust to file a fully briefed motion for an Order granting leave to obtain the deposition of an offshore deponent, issuing a Letter of Request to assist in the taking of this deposition and taking judicial notice of a Judgment of a Swiss Court.

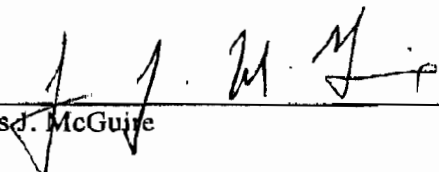
5. No trial date has yet been set in this matter.

6. It is not anticipated that the proposed substitution of counsel will delay the progress of this case.

7. Attached hereto as Exhibit A is a consent and stipulation to substitute attorneys in the above-captioned consolidated action, entered into and signed by Mishcon de Reya New York LLP, Sheppard, Mullin, Richter & Hampton LLP, and DMI S.A.

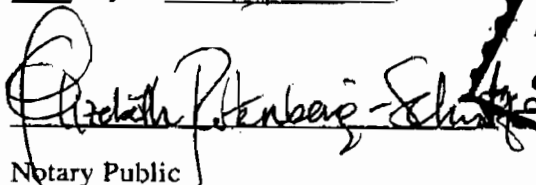
8. Attached hereto as Exhibit B is a consent and stipulation to substitute attorneys in the above-captioned consolidated action, entered into and signed by Mishcon de Reya New York LLP, Sheppard, Mullin, Richter & Hampton LLP, and DMI Trust.

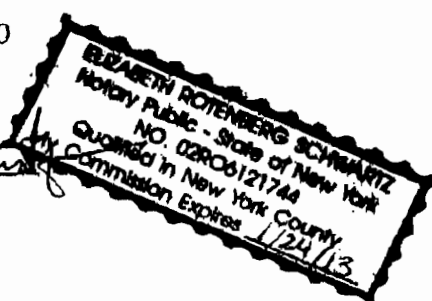
Accordingly, we respectfully request that the substitution of counsel be approved.

  
James J. McGuire

Sworn to before me this

3rd day of May, 2010

  
Notary Public



# EXHIBIT A